

CAUSE NO. 2020DCV0914

WESTAR INVESTORS GROUP, LLC, § IN THE COUNTY COURT  
SUHAIL BAWA, AND SALEEM MAKANI, §  
§  
Plaintiffs, §  
§  
v. §  
§  
THE GATEWAY VENTURES, LLC, § AT LAW NO. 6  
PDG PRESTIGE, INC., MICHAEL §  
DIXSON, SURESH KUMAR, §  
AND BANKIM BHATT, §  
§  
Defendants. § EL PASO COUNTY, TEXAS

**PLAINTIFFS' MOTION FOR SUBSTITUTED  
SERVICE ON DEFENDANT SURESH KUMAR**

Plaintiffs Westar Investors Group, LLC, Suhail Bawa and Saleem Makani (collectively “Plaintiffs”) file this motion for substituted service on Defendant Suresh Kumar (“Kumar”) pursuant to Texas Rule of Civil Procedure 106, and would respectfully show the Court as follows:

1. Plaintiffs filed their original petition against Kumar and the other Defendants in this Court on March 10, 2020, and citation to Kumar was issued by the Court Clerk on March 12, 2020.
2. Since that time, Plaintiffs have made numerous unsuccessful attempts to serve Kumar. These attempts are detailed in the Affidavit of Ryan McColm, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference.
3. As can be seen from the attached Affidavit, Mr. McColm has attempted on several occasions to serve Kumar at his usual place of abode located at 423 Bandera Lane, Sunnyvale, Texas 75182 and at his usual place of business located at 211 W. Grubb St., Mesquite, Texas 75149. However, as can be seen from the attached Affidavit, Kumar appears to be actively avoiding service.
4. As can also be seen from the attached Affidavit, service of the Citation, Petition, and Order for Substituted Service can be effectively made upon Kumar pursuant to Texas Rule of Civil

Procedure 106 by serving a copy of the Citation, Petition, and Order permitting substituted service with a person above the age of sixteen (16) years or by affixing same to the door at Kumar's usual place of business located at 211 W. Grubb St., Mesquite, Texas 75149.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs request that the Court Orders substituted service on Defendant Suresh Kumar by delivering to anyone over the age of sixteen (16) years or by affixing same to the door at Kumar's usual place of business located at 211 W. Grubb St., Mesquite, Texas 75149, a copy of the Citation, Petition and Order for Substituted Service, and that Plaintiffs have such other relief to which they may show themselves to be justly entitled

Respectfully submitted,

BROWN FOX PLLC

By: /s/ Eric C. Wood  
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ATTORNEYS FOR PLAINTIFFS  
WESTAR INVESTORS GROUP, LLC  
SUHAIL BAWA AND SALEEM MAKANI

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<b>WESTAR INVESTORS GROUP, LLC, SUHAIL BAWA, AND SALEEM MAKANI</b>	<b>§ §</b>	<b>IN THE COUNTY COURT</b>
<b>Plaintiff(s),</b>	<b>§</b>	
<b>VS.</b>	<b>§</b>	<b>AT LAW NO. 6</b>
<b>THE GATEWAY VENTURES, LLC, PDG PRESTIGE, INC., MICHAEL DIXSON, SURESH KUMAR, AND BANKIM BHATT</b>	<b>§ § §</b>	
<b>Defendant(s).</b>	<b>§</b>	<b>EL PASO COUNTY, TEXAS</b>

**AFFIDAVIT IN SUPPORT OF MOTION FOR SUBSTITUTED SERVICE**

On this day, before me the undersigned authority, personally appeared Ryan McColm, known to me to be the person whose name is subscribed hereto and under oath states:

"My name is Ryan McColm. I am over the age of eighteen (18) years, fully competent to testify to the matters stated herein, and am not a party to or interested in the outcome in the above styled and numbered cause. I am authorized and certified by the Texas Supreme Court under T.R.C.P. 103 to serve process. I have personal knowledge of the facts and statements contained in this affidavit and aver that each is true and correct.

It is impractical to secure service of process on Defendant SURESH KUMAR, in the above entitled and numbered cause, in person, a true and correct copy of the citation with the date of delivery endorsed and with a copy of the petition attached thereto. Personal service is impractical because said defendant absents him or herself and thereby evades service of said Citation.

I believe the most reasonable, effective way to give said defendant actual notice of this suit is to deliver a copy of the CITATION and PLAINTIFFS' ORIGINAL PETITION to anyone over the age of sixteen (16), or by affixing to the front door at the defendant's usual place of business, 211 WEST GRUBB STREET, MESQUITE, TX 75149.

I have attempted to personally deliver said documents upon the defendant on the following days and times, but have been unsuccessful for the following reasons:

**Tuesday, March 17, 2020, 1:17 PM - CITATION and PLAINTIFFS' ORIGINAL PETITION came to my hand.**

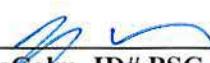
**Tuesday, March 17, 2020 4:30 PM – 423 BANDERA LANE, SUNNYVALE, TX 75182- I attempted service at the address on the citation. There were workers inside remodeling. It was unclear if the residents were living in the house during construction. I knocked on the door and there was no answer. I left a card on the door with my contact information.**

**Thursday, March 19, 2020 10:54 AM - 423 BANDERA LANE, SUNNYVALE, TX 75182- I arrived at the residence to find the same situation.**

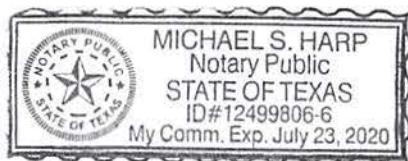
**Friday, March 20, 2020 4:20 PM - 211 WEST GRUBB STREET, MESQUITE, TX 75149 – On-line research showed that Defendant owns a convenience store at this address. I arrived at the store and asked for Defendant. The man running the counter identified himself as Defendant's brother. He confirmed that Defendant owns the store but was out of town at that time. He then called Defendant on the phone and handed it to me. Defendant told me he was in El Paso and should be back in a week. He then said he would call me when he got back in town and arrange a meeting. I left my card with his brother.**

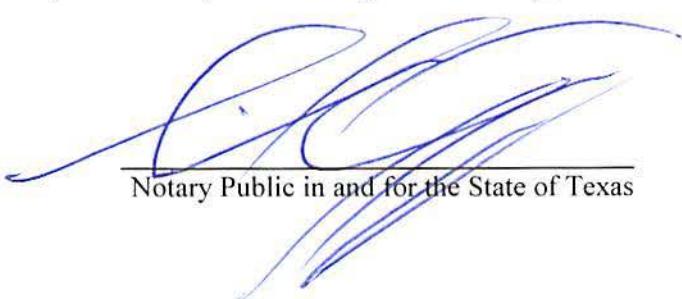
**Friday, March 27, 2020 11:20 AM - 211 WEST GRUBB STREET, MESQUITE, TX 75149- I again arrived at the store and spoke to Defendant's brother. He again called Defendant. He told me Defendant was still in El Paso and was sick and did not want to come home until he could be sure he wasn't bringing the virus back to his family. He again told me Defendant would call me when he returned.**

**Monday, April 13, 2020- As of the date of this affidavit I have not been contacted by Defendant.**

  
\_\_\_\_\_  
Ryan McColm ID# PSC 6317 - Exp 01/31/21  
Special Delivery Service, Inc.  
Dallas, TX 75240

Subscribed and Sworn to by **Ryan McColm**, Before Me, the undersigned authority, on  
this 13<sup>TH</sup> day of April, 2020.



  
\_\_\_\_\_  
Notary Public in and for the State of Texas